

IN THE UNITED STATES BANKRUPTCY COURT
NORTHERN DISTRICT OF OHIO
EASTERN DIVISION

Mix, Douglas E. : Case No. 11-11060
Mix, Lois O. :
Debtors : Judge Jessica Price Smith
: IN PROCEEDINGS UNDER CHAPTER 13

**MOTION OF DEBTORS DOUGLAS E. & LOIS O. MIX FOR AN ORDER UPON
GREEN TREE FINANCIAL, LLC, TO APPEAR AND SHOW CAUSE WHY IT SHOULD
NOT BE HELD IN CONTEMPT AND FOR DAMAGES**

Now come the Debtors, Douglas E & Lois O. Mix, by and through undersigned counsel, and move this Honorable Court for an Order upon Green Tree Financial LLC (hereinafter referred to as "Green Tree"), to show cause why they should not be held in contempt of court for their willful failure to honor this Court's January 24, 2013, order sustaining the objection of the Debtors to the claim of Green Tree, ordering the payment of monies wrongfully paid to Green Tree to the Chapter 13 Trustee for the Debtors' benefit, and for the payment of attorneys' fees and expenses, and for other damages incurred by the Debtors. A memorandum in support hereof is annexed hereto and incorporated herein as if fully re-written.

Respectfully submitted,

Date: 31 December 2013

/s/ Blake Owen Brewer
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MEMORANDUM IN SUPPORT

This case began by the filing of the instant Chapter 13 bankruptcy petition, plan, and related documents in this Court on or about February 11, 2011. The Debtors' plan was subsequently confirmed by this Court on May 25, 2011. The Debtors' confirmed plan called for

the abandonment of their former residence located at 15959 Briarwood Drive, Columbia Station, OH 44028, which was the subject of two (2) mortgages.

The bar date for filing claims was June 7, 2011. On June 4, 2012 (i.e., a year after the claims bar date), Green Tree, filed an amended proof of claim (Claim No. 4-2) for a “deficiency” in the amount of \$76,623.37. Although not entirely clear, Green Tree apparently claimed status as an assignee of one of the two mortgage holders on the Debtors’ prior residence in Columbia Station. On November 20, 2012, Debtors’ prior counsel filed an objection to amended claim number 4-2, which this Court sustained without opposition on January 24, 2013. Specifically, in that order, this Court ordered Green Tree to return \$13,874.88 disbursed by the Chapter 13 Trustee in this Court back to the Chapter 13 Trustee for the benefit of the Debtors, and to pay attorneys’ fees and costs associated with the objection to the proof of claim.

As of the filing of this motion, Green Tree has failed to either refund \$13,874.88 to the Chapter 13 trustee or to pay the attorneys’ fees awarded by the Court. Due to the continued failure of Green Tree to refund the money disbursed to them which they were not entitled to receive, the Debtor has been forced to prosecute this motion and to incur continuing attorneys’ fees and expenses in order to enforce the Court’s order herein.

WHEREFORE, the Debtors, Douglas E. & Lois O. Mix, request that this Court enter an order directing Green Tree to appear and show cause why it should not be held in contempt for its willful violation of the Court’s order sustaining the Debtors’ objection to its claim, and its refusal to restore funds they received without entitlement to receive them, and why it should not be held liable for actual damages, including attorneys’ fees and emotional distress caused by its conduct.

Respectfully submitted,

Date: December 31, 2013

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CERTIFICATE OF SERVICE

I certify that on December 31, 2013, a true and correct copy of the Debtors' foregoing motion to show cause was served:

Via the court's Electronic Case Filing System on these entities and individuals who are listed on the court's Electronic Mail Notice List:

Hilary B. Bonial on behalf of Wells Fargo Bank, at notice@bkcylaw.com

Joel K Jensen on behalf of Citimortgage, at nohbk@lsrlaw.com

Craig H Shopneck on behalf of the Chapter 13 Trustee
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United States Trustee on their behalf, at (Registered address)@usdoj.gov

And by regular U.S. mail, postage paid, on:

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